

Division of State Lands
775 Summer Street NE
Salem, OR 97310
☎ 503-378-3805

PORSF 11.3.31.5-1
Permit No.: FP-9836 - Renewal
Permit Type: Fill
Waterway: Willamette River
County: Multnomah
Expiration Date: October 24, 1999
Corps No.: 95-534

PORT OF PORTLAND

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. A copy of the permit shall be available at the work site whenever operations authorized by the permit are being conducted.
6. Employees of the Division of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
7. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within 10 days of the date this permit was issued.
8. In issuing this permit, the Division of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390 and related administrative rules.
9. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

NOTICE: If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 - 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Division of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Division of State Lands, 378-3805.

Earle A. Johnson, Manager
Western Region Field Operations
Oregon Division of State Lands


Authorized Signature



October 5, 1998
Date Issued

ATTACHMENT A

Special Conditions for Material Fill Permit No. 9836

1. This permit authorizes the placement of up to 120,000 cubic yards of sand in Sections 23 & 26, T2N, R1W for a development of a bulk commodities marine terminal as outlined in the attached permit application, map and drawings.

This permit also authorizes removal and filling activities necessary to complete mitigation actions identified below.

2. Turbidity shall not exceed 10% above natural stream turbidities as a result of the project. The turbidity standard may be exceeded for a limited duration, (per OAR 340-41) provided all practicable erosion control measures have been implemented as applicable, including, but not limited to:

- use of filter bags, sediment fences, silt curtains, leave strips or berms, or other measures sufficient to prevent offsite movement of soil;

- use of an impervious material to cover stockpiles when unattended or during a rain event;

- graveled construction accesses to prevent movement of material offsite via construction vehicles;

- sediment traps or catch basins to settle out solids prior to water entering ditches or waterways; and

Erosion control measures shall be maintained as necessary to ensure their continued effectiveness, until soils become stabilized.

3. Petroleum products, chemicals, or other deleterious materials shall not be allowed to enter the water.
4. Return waters from the project shall be provided adequate settling time to meet water quality standards.
5. Removal of existing woody vegetation shall be the minimum necessary to achieve the project purpose.

6. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, materials, construction, or maintenance of the permitted improvements.
7. The Division of State Lands retains the authority to temporarily halt or modify the project in case of excessive turbidity or damage to natural resources.

MITIGATION CONDITIONS

8. The following conditions apply to the mitigation actions as described in the application and outlined in the attached conceptual wetland mitigation plan by Fishman Environmental Services dated June 1995, and the preliminary wetland mitigation plan (revised August 1995) contained in the Habitat Evaluation Procedures dated September 1995, by Smith, Galen and Fishman which by reference is made a part of this permit:
 - a. The mitigation wetland shall be constructed prior to or concurrently with the filling activity.
 - b. The wetland shall be excavated (graded and sloped) as outlined in the Mitigation Plan.
 - c. The newly created wetlands shall be revegetated with riparian and wetland species of plants as indicated in the Mitigation Plan.
 - d. The issuance of this permit is conditional upon establishment of replacement wetlands of approximately 10.7 acres for loss of 9.41 acres of wetland.

MONITORING CONDITIONS

9. To ensure a successful habitat replacement the permittee shall, for a period of five years, maintain the mitigation site until vegetation has become established and the area is functioning as designed.
10. A post construction report demonstrating "as built" conditions including grading and discussing any variation from the approved plan shall be submitted to the Division within 60 days of completing grading.

11. The applicant shall provide an annual written monitoring report that includes all data necessary to document compliance with mitigation conditions and success in meeting the compensatory mitigation goals. These data shall include photographs, topographic surveys, plant survival data, hydrologic data and other relevant information. The monitoring report shall be submitted annually to the Division of State Lands for a period of five years after wetland construction. The report shall also address the concerns outlined in the U.S. Fish and Wildlife letter dated September 18, 1995 from Peterson to Wood. The annual report is due November 1 of each year.

CONTINGENCY MEASURES

12. Following receipt of the annual monitoring report, the Division of State Lands, in consultation with the Oregon Department of Fish and Wildlife, shall review the data submitted and the site conditions with the applicant. Necessary measures to ensure achievement of the mitigation objectives will be determined at the end of the final monitoring report.
13. The Division of State Lands retains the authority to require appropriate corrective actions to the mitigation site in the event the newly created wetlands are not functioning as designed within a period of five years.
14. The Division of State Lands retains the authority to temporarily halt or modify the project in case of excessive turbidity or damage to natural resources.

October 5, 1998